## **ALAA**mericanLibraryAssociation

September 3, 2013

Eliot Greenwald
Federal Communications Commission
Consumer & Government Affairs Bureau

445 12<sup>th</sup> Street, SW Room TW-A325 Washington, DC 20554

RE: Request for Comments on Petition for Class Waiver of Commission's Rules for Access to Advanced Communications Services and Equipment by People with Disabilities

CG-Docket No. 10-213

Dear Mr. Greenwald:

The following comments on the Petition for Class Waiver of Commission's Rules for Access to Advanced Communications Services and Equipment by People with Disabilities, as applied for by the Coalition of E-Reader Manufacturers, are submitted by the American Library Association (ALA). A core value of the Association and its members is to enhance learning and ensure access to information for all, and this petition strikes at the heart of this commitment to equitable public access.

The ALA urges the Commission to reject the petition. Fundamentally, the Coalition does not argue that e-readers are not covered by the Communications and Video Accessibility Act (CVAA) rules. The Coalition admits that e-readers provide ACS; the Coalition instead argues that the ACS features are "stripped down" "not fully featured" "rudimentary" have "slow refresh rates" and the user experience "would not be robust." These are not the legal standards for granting a waiver of the rules. The statute allows waivers only if the device "is designed primarily for purposes other than using advanced communications services." In fact, e-readers ARE designed to access the Internet to download books and magazines. Internet access is a basic functionality of e-readers that is integral to their use and popularity, and will become even more essential in the future. So the waiver request does not meet the statutory requirements for a waiver.

Furthermore, e-readers, as marketed and used, do not constitute a distinct class. In fact, new models increasingly stretch beyond a primary purpose of reading. The Kindle Paperwhite, for instance, advertises games and applications as part of its marketing and recommends Kindle for education and

business use (<a href="http://www.amazon.com/Kindle-Paperwhite-Touch-light/dp/B007OZNZG0">http://www.amazon.com/Kindle-Paperwhite-Touch-light/dp/B007OZNZG0</a>). Similarly, the Kobo Aura HD encourages users to share passages and start a "conversation" with Facebook friends. The ALA is concerned that the Coalition seeks a blanket exemption for generations of e-readers without any information about the expected lifecycle of the product.

But more importantly, the ALA believes that a well-functioning democracy and economy depend on equitable access to information for all, regardless of circumstances. Access to information, particularly reading, is fundamental to learning and enables full and effective participation and inclusion in society. Denying access limits the complete development of people with disabilities, their freedom of expression, and their ability to communicate, to be educated, and simply enjoy life. Any action to limit access to reading materials to people with print or other disabilities is a step backward and is discriminatory. This is a time when technological advances can be used to dramatically increase access to information for people with disabilities, and we must capture every opportunity.

ACS ability is certainly not irrelevant, even to the majority of users. Even if this were true, however, the CVAA is intended to enable use by a minority of users—specifically those with disabilities. It is particularly disingenuous for the Coalition to assert that making e-readers accessible for equitable use "would not yield a meaningful benefit to individuals with disabilities." The Coalition provides no support for this statement, and, in fact, there is a significant record of advocacy (and legal action) seeking accessibility features on e-readers. People with disabilities should not be required to purchase far more expensive devices in order to enjoy the same ACS and reading experiences that others enjoy.

The print disabled are readers and consumers just as sighted people. They wish to enjoy the boon of information now available to them through digital technologies. They too want choice when buying an e-reader. The print disabled want what others have— "same book, same time, same price."

Importantly, libraries are "authorized entities" who serve people with print and other disabilities under both the Chafee Amendment (17 U.S.C. §121) and the recently concluded *Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled* <a href="http://www.wipo.int/edocs/mdocs/copyright/en/vip\_dc/vip\_dc\_8\_rev.pdf">http://www.wipo.int/edocs/mdocs/copyright/en/vip\_dc/vip\_dc\_8\_rev.pdf</a>. Thus, as recognized under federal and international copyright law, libraries must make accessible content available to people with print disabilities. In addition, providing equitable access for persons with disabilities to library facilities and services is required by Section 504 of the Rehabilitation Act of 1973, applicable state and local statutes, and the Americans with Disabilities Act of 1990 (ADA). These are laws that impact libraries in a real way. Already, two public libraries—the Free Public Library of Philadelphia and Sacramento Public Library—have been sued by the Department of Justice for providing e-readers that are not accessible (<a href="http://docs.justia.com/cases/federal/district-">http://docs.justia.com/cases/federal/district-</a>

courts/pennsylvania/paedce/2:2012cv02373/461996/14/1.pdf?ts=1376974519; http://www.ada.gov/sacramento\_ca\_settle.htm).

Libraries are held accountable for employing technology equitably to serve the information and reading needs of everyone in their communities. The ALA expects no less from the E-reader Coalition, and asks the FCC to reject this petition.

Sincerely, Emily Shehetery

Emily Sheketoff Executive Director ALA Washington Office